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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/418,628	10/15/1999	TERRY L. WILLIAMS	6785-109	9136

7590

04/29/2002

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EXAMINER

IQBAL, KHAWAR

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 04/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/418,628

Applicant(s)

WILLIAMS, TERRY L.

Examiner

Khawar Iqbal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of U.S. Patent No. 6370386.

3. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, to simply remove the feature of periodically consolidating a set of active subscriber calls to minimum number of RFP resources assigned to the cell in claim 1 does not render the present claims patentably distinct from the claims found in U.S. Patent No. 6370386.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fapojuwu (6212389) and further in view of Kline et al (5768268).

Regarding claim 1 Fapojuwu teaches a method for dynamically allocating signal processing resources in a wireless multichannel broadband base station (BBS) for a cellular communications network, said method comprising the steps of (col. 4, line 55- col. 4line 20, abstract, figs. 1-4):

determining a number of available channel resources which are unused in said BBS, LCM processing any of a plurality of traffic channel assigned to said BBS (col.7, lines 55-60);

in response to notification of a subscriber call to be processed by said BBS, determining if said number of available CP resources is at least one (col. 7, lines 60-67);

Selecting any of said available CP resources for processing of said call (col. 8, lines 1-7); and

assigning said call to said available CP resource which has been selected (col. 8, lines 7-15, col. 8, lines 16-50, figs.1-5). Fapojuwu does not specifically teach multiple channel processors for processing any of a plurality of traffic channels. In an analogous

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art, Kline et al teach multiple channel processors for processing any of a plurality of traffic channels (col. 6, line 4-col. 5 line5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Fapojuwo by specifically adding multiple channel processors for processing any of a plurality of traffic channels as taught by Kline et al.

Regarding claim 2 Mahler teaches transceiver base unit forms a ground plane for the antenna (fig. 1, col. 1, lines 47-55).

Regarding claims 2 and 9 Fapojuwo teaches decrementing the number of available CP resources by one after said assigning step (col. 8, lines 16-50).

Regarding claims 3 and 10 Fapojuwo teaches rejecting said call if all CP resources of said BBS are in use (col. 8, lines 1-15).

Regarding claims 4 and 11 Fapojuwo teaches incrementing a count of rejected calls each time a call is rejected for lack of sufficient resources (col. 8, lines 20-30).

Regarding claims 5 and 12 Fapojuwo teaches wherein said number of available CP resources is determined by counting the total number of CP resources assigned to said cell, and decrementing said total number by at least one of, a total number of active subscriber calls in a cell and the number of CP resources assigned for handling control channel traffic in said cell col. 9, lines 1-30).

Regarding claims 6 and 13 Fapojuwo teaches incrementing said number of available CP resources in said cell when said call is terminated (col. 9, lines 1-30).

Regarding claims 7 and 14 Fapojuwo teaches handing over said call from a first cell of said BBS; and continuing to process said call on said available CP resource

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which has been selected and assigned prior to said step of handing over said call to said target cell (col. 4, lines 5-10, col. 6, lines 36-60, col. 5, lines 5-15).

As to claim 8 it is considered the claim is rejected for the same reason as set forth in claim 1.

3. **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Hengeveld (6330447), Benveniste (6232016), Schwaller (6230026), Williams (6219562), Patronen (6292661), Scott, II (6282423), Eswara (6219554), Chao (6178329), Borst (6119011), Yamashita (6108547), Cruickshank (6108343), Henson (5974324), Kline (5768268) and Carney (5592480) teach apparatus and method for dynamic allocation of wireless station DSP resources with integrated rate converters in wireless communication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAWAR IQBAL whose telephone number is 703-306-3015.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **URBAN EDWARD F**, can be reached at 703-305-4385.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

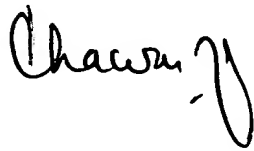
(703) 872-9314 (for Technology Center 2684 only)

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Khawar Iqbal



EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
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